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### Remarks/Arguments

Claims 70-115 are currently pending in the application. Claims 70, 87, and 104 are amended and fully supported by the specification. Claims 71, 72, 88, 89, 105, and 106 are deleted. For at least the reasons stated below, Applicant asserts that all claims are in condition for allowance.

#### 1. DRAWINGS

Please note that the recitation for Figure 144 in the "Description of the Drawings" found on page 18 of the specification has been deleted, since there is no Figure 144. This recitation was presented in error.

#### 2. 35 U.S.C. § 103 Rejections

Claims 70-115 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the prior art. Specifically, claims 70-81, 87-98, and 104-111 were rejected as unpatentable over *Webber*, U.S. Patent No. 6,167,378 (hereinafter "*Webber*"), in view of *Whipple, et al.*, U.S. Patent No. 6,289,385 B1 (hereinafter "*Whipple*"); claims 82-84, 86, 99-101, 103, and 112-115 were rejected as unpatentable over *Webber* in view of *Whipple* and further in view of *Abgrall*, U.S. Patent No. 6,373,298 (hereinafter "*Abgrall*"); and claims 85 and 102 were rejected as unpatentable over *Weber* in view of *Whipple* in view of *Abgrall* and in view of *Gerace*, U.S. Patent No. 5,991,735. Applicant respectfully disagrees with such rejection because it does not appear that Applicant's invention, *as claimed*, was considered based upon the Office Action, and because *Webber* and *Whipple* do not teach or suggest, alone or in combination, all elements of independent claims 70, 87, and 104.

As an initial note, it appears the rejection is invalid because the subject matter of the claims considered, as referenced in the Office action, are not the claims *as claimed* in the paper submitted April 19, 2004. Despite the statement indicating that the April 19, 2004, amendment was considered, on page 3, in which the rejections of claims 70, 87, and 104 are detailed, the claim language considered is not the claim language submitted in the Amendment. Specifically, there is no mention of the subject matter included in the amendment dated April 19, 2004. Compare Office Action at 3 to Amendment and Response dated April 19, 2004 at 2, 5, and 9 (Claims 70, 87, and 104 respectively). Hence, where

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the Office action does not address claims as amended, it is invalid. *See generally* 35 U.S.C. § 132. Therefore, rejection based upon 35 U.S.C. § 103 is improper, and Applicant respectfully requests that the rejection be withdrawn.

A. Independent Claims 70, 87, and 104

In the event that Applicant misinterpreted the language of the Office Action, Applicant opposes the rejection because *Webber* fails to disclose all the limitations of the pending claims, as amended. It is of value to reiterate the argument previously presented because it is still presently applicable:

*Webber* discloses a method that automates a supply chain for goods between manufacturers, consumers, and other intermediate parties. *See Webber* at Fig. 4, col. 3, ll. 37-38, col. 6, ll. 13-17. Its purpose is to integrate contracts among the separate entities participating in the supply chain such that fulfillment proceeds automatically with predetermined contracts. *See id.* at Abstract, ll. 9-12, col. 6, ll. 47-51. *Webber*, however, fails to disclose any evaluation of the information provided by the service provider and manufacturer to the framework manager, as claimed in the present invention, nor does *Webber* teach such evaluation.

The present claimed invention operates to facilitate the proper connection between participants in a supply chain network. The present invention claims a "framework manager using a network to . . . use and evaluate information provided by the service provider via the network and the manufacturer to match the service to the offerings." Claim 70(c) as amended. In comparison, *Webber* only discloses the matching of participant contracts. *See Webber, e.g.*, col. 6, ll. 62-64. However, no evaluation of potential matches is disclosed, nor is evaluation performed by a third party to determine the appropriate match of information regarding supply chain participant offerings or needs. The matching that is disclosed in *Webber* is that derived from automation. Furthermore, *Webber* does not teach toward using a third party to evaluate and match information derived from the supply chain. In fact, *Webber* teaches away from this concept, instead insinuating that only a participant member of the supply chain would initially evaluate available information when entering initial information. *Webber*, col. 6, ll. 31-

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37. Hence, reliance on *Webber* is unfounded, and rejection based upon this prior art should be withdrawn.

In response, it is claimed that *Webber* "discloses using and evaluating the information", however, consideration of the citations does not support this statement. The passages of *Webber* cited, col. 20, lines 15-21 and 29-43 only disclose the storage of purchase orders submitted by users of the system, and the matching of outstanding purchase orders to suppliers who offer those goods detailed in the purchase order. Such disclosure does not teach or disclose the evaluation of the information submitted, as presently claimed. Words, unless defined within the specification, are interpreted using their ordinary and plain meaning. See MPEP § 2111.01 (II). The word "evaluate" connotes a meaning of additional activity and process than that disclosed in *Webber*. Furthermore, the factors considered, as indicated as examples in the amended claims, demonstrate that more is occurring than just matching of requested services to available services, as disclosed in *Webber*. Therefore, *Webber* does not fully teach or disclose the claimed invention, and the rejection based upon the prior art should be withdrawn.

Independent claims 70, 87, and 104 are also rejected on the grounds that *Webber* discloses installations. Office Action, at 3 ("However, *Webber* discloses installations (col. 16, lines 20-25). Applicant respectfully disagrees with this rejection, as even a cursory reading of the language cited indicates that it is taken out of context. Specifically, the language at col. 16, lines 20-25 in *Webber* discuss installation of the underlying software used by the users of the invention disclosed in *Webber*. It does not consider that the software installation itself is installed through a supply chain framework, the innovation disclosed in the present invention. As is becoming readily apparent, *Webber* fails to disclose or teach all limitations of the claimed invention, and the rejection based upon *Webber* should be withdrawn.

Additionally the claims have been amended to reflect that a collaborative planning tool is used to facilitate the supply chain installation management. *Webber* is again cited for the proposition that it discloses the provision of a collaborative planning tool. See Office Action, at 5-6 (citing col. 19, lines 9-26, col. 3, lines 60-65, and col. 14, lines 48-54). However, none of these citations disclose, teach, or suggest a collaborative planning tool employed to facilitate the installation via a supply chain. These *Webber* citations only disclose the execution of a purchase through a supply chain, but no planning. See *Webber*,

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at col. 19, lines 9-26, col. 3, lines 60-65, and col. 14, lines 48-54. Hence, because *Webber* does not teach or suggest the claims, as amended, the amended claims are in condition for allowance, and a notice of allowance should be issued.

**B. Outstanding dependent claims**

All dependent claims have also been rejection in the Office Action. However, because the independent claims are in condition for allowance, these dependent claims are likewise in condition for allowance, and a notice of allowance should be issued for the present application.

**3. Conclusion**

Applicant submits that for at least the reasons stated above, the finality of the previous office action is improper and the office action should be made non-final. Further, Applicant has demonstrated how all pending claims are allowable over the art of record and respectfully requests that a Notice of Allowance be issued in this case. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (612) 607-7387. If any fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees including fees for any extension of time, to Deposit Account No. 50-1901 (Docket 60021-334801).

Respectfully submitted,



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